RSA No.208 of 1998

19.6.2007 Present: Mr. B.S. Kanwar, Advocate, for the appellant.

Mr. Romesh Verma, Advocate, for the respondent.

Mohinder Singh father of Jagjit Singh appellant filed a suit for mandatory injunction against respondent Avtar Singh, which was decreed on 28.6.1994 by Sub Judge Ist Class (1) Shimla and defendant was directed to hand over vacant possession of Parkash Cottage consisting of two one room set, bath room, kitchen, situated on Khasra No.221 and 223 Ram Nagar, Shimla. The defendant Avtar Singh filed an appeal which was allowed on 13.10.1997 by learned District Judge, Shimla, who set aside the judgment, decree dated 28.6.1994. Mohinder Singh filed the above appeal against judgment, decree dated 13.10.1997. Mohinder Singh died during the pendency of the appeal and his son Jagjit Singh has been brought on record.

The parties have filed joint application being CMP No.420 of 2007, which is accompanied by compromise dated 16.6.2007. The application is supported by affidavit of Avtar singh and Jagjit Singh. The application has been signed by learned counsel for the parties.

Statement of Jagjit Singh has been recorded and he has stated that application dated 16.6.2007 has been prepared at the instance of both the parties, which is supported by his affidavit as well as affidavit of Avtar Singh. The compromise Ex.CA has been prepared at the instance of both the parties which is signed by him as well as by respondent Avtar Singh and their respective counsel . He has settled the dispute with Avtar Singh. He has given to respondent Avtar Singh a demand draft No.354076 dated 19.6.2007

amounting to Rs.2,00,000/- of UCO Bank, payable at new Delhi and appeal be disposed of in terms of application dated 16.6.2007 and compromise Ex.CA. The parties shall remain bound by the compromise.

The statement of Avtar Singh has also been recorded who has supported the statement of Jagjit Singh. He has admitted the receipt of demand draft No.354076 dated 19.6.2007 amounting to Rs.2,00,000/- from Jagjit Singh. He has also stated that he has handed over possession of the suit property to Jagjit Singh. He has admitted compromise Ex.CA.

I have gone though the application under Order 23 Rules 1, 3 read with Section 151 CPC and compromise Ex.CA.

The application is signed by both the parties and is also supported by affidavits of both the parties. In view of the compromise Ex.CA and statements of the parties recorded today, the appeal is disposed of in terms of compromise Ex.CA and statements of parties recorded today. The compromise Ex.CA, statement of Jagjit Singh and statement of Avtar Singh shall form part of the decree. The application is also disposed of. No orders as to costs.

(Kuldip Singh)
Judge

June 19, 2007
(sks)